

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 16692/2026

[ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 28-04-2026
IN WP NO. 11126/2025 PASSED BY THE HIGH COURT OF DELHI AT NEW
DELHI]

RAJASTHAN METALS

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

(IA No. 142200/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

WITH

SLP(C) No. 16728-16729/2026 (XV)

(IA No. 142875/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 143806/2026 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 12-05-2026 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s): Mr. Mukul Rohatgi, Sr. Adv.
Mr. Balbir Singh, Sr. Adv.
Mr. Chirag Shetty, Adv.
Ms. Ayushi Agarwal, Adv.
Ms. Anam Khan, Adv.
Ms. Disha Jham, Adv.
Mr. Karan Sachdev, Adv.
Mr. Naman Tandon, AOR
Ms. Shivali Shah, Adv.

For Respondent(s): Mr. Raghvendra P Shankar, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mrs. Pallavi Mishra, Adv.
Mr. Bhuvan Kapoor, Adv.
Mr. Udit Dediya, Adv.
Mrs. Seema Bengani, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The petitioners, *inter-alia*, challenged the show cause notice issued by the respondents herein wherein preferential rates of duties under the Association of Southeast Asian Nations-India Free Treaty Agreement (AIFTA) on the import of copper tubes and pipes, has been rejected.

2. The sole ground for the rejection was that the goods do not satisfy the condition of the Regional Value Content (RVC) of 35%.

3. The High Court by its impugned order relegated the parties to the authority with liberty to raise all pleas in response to the show cause notice and has required the adjudicating authority to pass a reasoned and speaking order.

4. The aggrieved petitioners are before us. The petitioners contend that they have due and valid Certificate of Origin issued from the originating country. According to them, in case the Certificate is to be disputed, the procedures set out in Article 24 of the Treaty has to be followed.

5. Article 24 of the Treaty reads as under:

“(a) In case of a dispute concerning origin determination, classification of products or other related matters, the Governmental authorities concerned in the importing and

exporting Parties shall consult each other with a view to resolving the dispute, and the result communicated to the other Parties.

(b) Where no mutually satisfactory solution to the dispute is reached through consultations, the Party concerned may invoke the dispute settlement procedures under the ASEAN-India DSM Agreement."

6. Following upon the Treaty, the Customs Tarrif (Determination of Origin of Goods) under the preferential trade agreement between the Government of Member States of the Association of Southeast Asian Nations (ASEAN) and the Republic of India (Rules), 2009 have been incorporated.

7. While Rule 4 of the Rules of 2009 dealt with products wholly produced or obtained from the member countries, Rule 5, with which we are immediately concerned, dealt with products not wholly produced or obtained in the Member Nations from where imports are made.

8. Rule 5 which incorporates a deeming clause, reads as under:

"5. Not wholly produced or obtained products.- (1) For the purpose of clause (b) of rule 3, a product shall be deemed to be originating, if-

(i) the AIFTA content is not less than 35 per cent. Of the FOB value; and

(ii) the non-originating materials have undergone at least a change in tariff sub-heading (CTSH) level i.e. at six digit of the Harmonized System:

Provided that the final process of the manufacture is performed within the territory of the exporting party."

9. Rule 13 of the very same Rules deals with Certificate of Origin and reads as under:

"13. Certificate of Origin.- Any claim that a product shall be accepted as eligible for preferential tariff treatment shall be supported by Certificate of Origin as per the specimen in the Attachment to the Operational Certification Procedures issued by a Government authority designated by the exporting party and notified to the other parties in accordance with the Operational Certification Procedures as set out in Annexure III annexed to these rules."

10. Annexure-III to the said Rules deals with verification pursuant to Rule 13. Rules 16(a) & 17, which are relevant for the purpose of resolving the

controversy, read as under:

"16. (a) The importing party may request a retroactive check at random and/or when it has reasonable doubt as to the authenticity of the document or as to the accuracy of the information regarding the true origin of the good in question or of certain parts thereof. The Issuing Authority shall conduct a retroactive check on the producer/exporter's cost statement based on the current cost and prices within a six-months timeframe prior to the date of exportation subject to the following procedures:

(i) the request for a retroactive check shall be accompanied by the AIFTA Certificate of Origin concerned and specify the reasons and any additional information suggesting that the particulars given in the said AIFTA Certificate of Origin may be inaccurate, unless the retroactive check is requested on a random basis;

(ii) the Issuing Authority shall respond to the request promptly and reply within three months after receipt of the request for retroactive check;

(iii) In case of reasonable doubt as to the authenticity or accuracy of the

document, the Customs Authority of the importing party may suspend provision of preferential tariff treatment while awaiting the result of verification. However, it may release the goods to the importer subject to any administrative measures deemed necessary, provided that they are not subject to import prohibition or restriction and there is no suspicion of fraud; and

(iv) the retroactive check process, including the actual process and the determination of whether the subject good is originating or not, should be completed and the result communicated to the Issuing Authority within six months. While the process of the retroactive check is being undertaken, sub-paragraph (iii) shall be applied.

(b) The Customs Authority of the importing party may request an importer for information or documents relating to the origin of imported good in accordance with its domestic laws and regulations before requesting the retroactive check pursuant to paragraph (a).

17. (a) If the importing party is not satisfied with the outcome of the retroactive check, it may, under

exceptional circumstances, request verification visits to the exporting party. Prior to conducting a verification visit-

(i) the importing party shall deliver a written notification of its intention to conduct the verification visit, through the competent authority, simultaneously to, -

- 1. the producer/exporter whose premises are to be visited;*
- 2. the Issuing Authority of the party in the territory of which the verification visit is to occur;*
- 3. the competent authority of the party in the territory of which the verification visit is to occur; and*
- 4. the importer of the goods subject to the verification visit;*

(ii) the written notification mentioned in sub-paragraph (i) shall be as comprehensive as possible and include:

- 1. the name of the competent authority issuing the notification;*
- 2. the name of the producer/exporter whose premises are to be visited;*
- 3. the proposed date of the verification visit;*
- 4. the coverage scope or purpose of the*

proposed verification visit, including reference to the goods subject to the verification; and

5. the names and designation of the officials performing the verification visit;

(iii) an importing party shall obtain the written consent of the producer/exporter whose premises are to be visited;

(iv) when a written consent from the producer/exporter is not obtained within thirty days from the date of receipt of the notification pursuant to sub-paragraph (i), the notifying party may deny preferential tariff treatment to the goods referred to in the said AIFTA Certificate of Origin that would have been subject to the verification visit; and

(v) the Issuing Authority receiving the notification may postpone the proposed verification visit and notify the importing party of such intention within fifteen days from the date of receipt of the notification. Notwithstanding any postponement, any verification visit shall be carried out within sixty days from the date of such receipt, or for such longer period as the parties may agree,

(b) The importing party conducting the

verification visit shall provide the producer/exporter whose goods are subject to the verification and the relevant Issuing Authority with a written determination of whether that goods qualify as originating goods.

(c) The determination of whether the goods qualify as originating goods shall be notified to the producer/exporter, and the relevant Issuing Authority. Any suspended preferential tariff treatment shall be reinstated upon a determination that the goods qualify as originating goods.

(d) If the goods are determined to be non-originating, the producer/exporter shall be given thirty days from the date of receipt of the written determination to provide any written comments or additional information regarding the eligibility of the goods for preferential tariff treatment. If the goods are still found to be non-originating, the final written determination issued by the importing party shall be communicated to the Issuing Authority within thirty days from the date of receipt of the comments/additional information from the producer/exporter.

(e) The verification visit process, including the actual visit and the

determination whether or not the goods subject to verification is originating, shall be carried out and its results communicated to the Issuing Authority within a maximum period of six months from the date when the verification visit was conducted. While the process of verification is being undertaken, subparagraph a(ii) of paragraph 16 shall be applied."

11. According to the petitioners, the show cause notice was without jurisdiction since the authority issuing the show cause notice lack competence to go behind the Certificate of Origin and the only method of questioning the Certificate of Origin was the one prescribed in the Treaty read with the Rules.

12. At this stage, Mr. Raghvendra P. Shankar, learned Addl. Solicitor General submits that reliance on Article 24 by the petitioners is misplaced as that operates at the inter-governmental level.

13. Learned Addl. Solicitor General further draws our attention to Section 28DA of the Customs Act, 1962 and contends that issuance of show cause notice was perfectly within the jurisdiction. He drew particular attention to Section 28DA(2) and 28DA(4) of the Customs Act, 1962, which reads as under:

"28DA. Procedure regarding claim of preferential rate of duty.-

(2) The fact that the importer has submitted a certificate of origin issued by an Issuing Authority shall not absolve the importer of the responsibility to exercise reasonable care.

(4) Where importer fails to provide the requisite information for any reason, the proper officer may,- (i) cause further verification consistent with the trade agreement in such manner as may be provided by rules; (ii) pending verification, temporarily suspend the preferential tariff treatment to such goods: Provided that on the basis of the information furnished by the importer or the information available with him or on the relinquishment of the claim for preferential rate of duty by the importer, the Principal Commissioner of Customs or the Commissioner of Customs may, for reasons to be recorded in writing, disallow the claim for preferential rate of duty, without further verification."

14. Issue notice, returnable on 27.07.2026.

15. In the meantime, we want the respondent-Union to

India to file an affidavit setting out the Union's stand in the matter. We direct that pursuant to the order of the High Court and the remit therein, no final order shall be passed by the adjudicating authority. However, the adjudicating authority shall proceed with all other steps anterior to the passing of the final order.

16. List on 27.07.2026.

(ABHINAV KUMAR)
COURT MASTER (SH)

(MANOJ KUMAR)
COURT MASTER (NSH)